

REMARKS/ARGUMENTS

Claims 3-4 and 18 are active.

Support for the amendment to Claims 18 is found on page 18, [0019].

No new matter is added.

The non-elected and withdrawn subject matter has been cancelled. Applicants intend to file a divisional application for this.

The rejection that has been maintained from the prior action as it now relates to Claim 18, the other claims have been cancelled, is no longer applicable. In particular, Applicants reference the previously submitted Rule 132 Declaration.

The experiments in that Declaration demonstrated that the crystallized compound has the ability to maintain its crystallization continuously even when contained in a capsule.

Specifically, attention is directed to paragraphs 10 and 11 of the Declaration.

Therefore, formulating a crystalline compound as defined in Claim 18 of the application into a medicinal composition that is the form of a capsule would not have the issues that are identified in the Brittain publication cited previously in the rejection.

Withdrawal of the rejection is requested.

Application No. 10/562,122
Reply to Office Action of July 23, 2009

A Notice of Allowance is requested.

Respectfully submitted,

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